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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

AMERICAN NAVIGATION SYSTEMS,
INC.,

Plaintiff,

v.

SAMSUNG ELECTRONICS CO., LTD.,
SAMSUNG ELECTRONICS AMERICA,
INC., and SAMSUNG
TELECOMMUNICATIONS AMERICA,
LLC,

Defendants.

Case No. 3:14-cv-05298-JST

**STIPULATION & ORDER
REGARDING DISCOVERY OF
ELECTRONICALLY STORED
INFORMATION FOR PATENT
LITIGATION**

1 Upon the stipulation of the parties, the Court ORDERS as follows:

2 1. This Order supplements all other discovery rules and orders. It streamlines
3 Electronically Stored Information (“ESI”) production to promote a “just, speedy, and inexpensive
4 determination of this action, as required by Federal Rule of Civil Procedure 1.”

5 2. This Order may be modified in the Court’s discretion or by stipulation. The parties
6 shall jointly submit any proposed modifications within 30 days after the Federal Rule of Civil
7 Procedure 16 Conference.

8 3. As in all cases, costs may be shifted for disproportionate ESI production requests
9 pursuant to Federal Rule of Civil Procedure 26. Likewise, a party’s nonresponsive or dilatory
10 discovery tactics are cost-shifting considerations.

11 4. A party’s meaningful compliance with this Order and efforts to promote efficiency
12 and reduce costs will be considered in cost-shifting determinations.

13 5. The parties are expected to comply with the District’s E-Discovery Guidelines
14 (“Guidelines”) and are encouraged to employ the District’s Model Stipulated Order Re: the
15 Discovery of Electronically Stored Information and Checklist for Rule 26(f) Meet and Confer
16 regarding Electronically Stored Information.

17 6. General ESI production requests under Federal Rules of Civil Procedure 34 and 45
18 shall not include email or other forms of electronic correspondence (collectively “email”). To
19 obtain email parties must propound specific email production requests.

20 7. Email production requests shall only be propounded for specific issues, rather than
21 general discovery of a product or business.

22 8. Email production requests shall be phased to occur after the parties have
23 exchanged initial disclosures and basic documentation about the patents, the prior art, the accused
24 instrumentalities, and the relevant finances. While this provision does not require the production
25 of such information, the Court encourages prompt and early production of this information to
26 promote efficient and economical streamlining of the case.

27 9. Email production requests shall identify the custodian, search terms, and time
28

1 frame. The parties shall cooperate to identify the proper custodians, proper search terms and
2 proper timeframe as set forth in the Guidelines.

3 10. Each requesting party shall limit its email production requests to a total of five
4 custodians per producing party for all such requests. The parties may jointly agree to modify this
5 limit without the Court's leave. The Court shall consider contested requests for additional
6 custodians upon showing a distinct need based on the size, complexity, and issues of this specific
7 case. Cost-shifting may be considered as part of any such request.

8 11. Each requesting party shall limit its email production requests to a total of ten
9 search terms per custodian per party. The parties may jointly agree to modify this limit without
10 the Court's leave. The Court shall consider contested requests for additional search terms per
11 custodian, upon showing a distinct need based on the size, complexity, and issues of this specific
12 case. The Court encourages the parties to confer on a process to test the efficacy of the search
13 terms. The search terms shall be narrowly tailored to particular issues. Indiscriminate terms,
14 such as the producing company's name or its product name, are inappropriate unless combined
15 with narrowing search criteria that sufficiently reduce the risk of overproduction. A conjunctive
16 combination of multiple words or phrases (*e.g.*, "computer" and "system") narrows the search and
17 shall count as a single search term. A disjunctive combination of multiple words or phrases (*e.g.*,
18 "computer" or "system") broadens the search, and thus each word or phrase shall count as a
19 separate search term unless they are variants of the same word. Use of narrowing search criteria
20 (*e.g.*, "and," "but not," "w/x") is encouraged to limit the production and shall be considered when
21 determining whether to shift costs for disproportionate discovery. Should a party serve email
22 production requests with search terms beyond the limits agreed to by the parties or granted by the
23 Court pursuant to this paragraph, this shall be considered in determining whether any party shall
24 bear all reasonable costs caused by such additional discovery.

25 12. Nothing in this Order prevents the parties from agreeing to use technology assisted
26 review and other techniques insofar as their use improves the efficacy of discovery. Such topics
27 should be discussed pursuant to the District's E-Discovery Guidelines.
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1 **IT IS SO STIPULATED**, through Counsel of Record.

2
3
4 Dated: March 10, 2015

 Dated: March 10, 2015

5 By: /s/ Patrick C. Bageant
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 Attorneys for Defendants
 SAMSUNG ELECTRONICS CO., LTD.,
 SAMSUNG ELECTRONICS AMERICA,
 INC.

ATTORNEY ATTESTATION

Pursuant to Civil L.R. 5-1(i)(3), I attest under penalty of perjury that concurrence in the filing of this document has been obtained from each of its signatories.

Dated: March 10, 2015

By: /s/ David Almeling
David Almeling

1 **IT IS ORDERED** that the foregoing Agreement is approved.

2
3 Dated: March 11, 2015

